

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1698

Introduced by Assembly Member Nunez

February 22, 2005

An act to amend Section 1373 of the Health and Safety Code, and to amend Section 10277 of the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1698, as amended, Nunez. Health care coverage.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires that every health care service plan contract that provides for termination of coverage of a dependent child upon attainment of the limiting age for dependent children shall also provide that attainment of the limiting age shall not terminate the coverage of a child under certain conditions. Existing law establishes similar requirements for group hospital, medical, or surgical expense insurance policies that provide coverage of dependent children.

This bill would prohibit the limiting age for dependent children covered by these health care service plan contracts and insurance policies from being prior to the dependent's 26th birthday.

Because a violation of the bill's requirements with respect to a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1373 of the Health and Safety Code is
2 amended to read:

3 1373. (a) A plan contract may not provide an exception for
4 other coverage if the other coverage is entitlement to Medi-Cal
5 benefits under Chapter 7 (commencing with Section 14000) or
6 Chapter 8 (commencing with Section 14200) of Part 3 of
7 Division 9 of the Welfare and Institutions Code, or medicaid
8 benefits under Subchapter 19 (commencing with Section 1396)
9 of Chapter 7 of Title 42 of the United States Code.

10 Each plan contract shall be interpreted not to provide an
11 exception for the Medi-Cal or medicaid benefits.

12 A plan contract shall not provide an exemption for enrollment
13 because of an applicant's entitlement to Medi-Cal benefits under
14 Chapter 7 (commencing with Section 14000) or Chapter 8
15 (commencing with Section 14200) of Part 3 of Division 9 of the
16 Welfare and Institutions Code, or medicaid benefits under
17 Subchapter 19 (commencing with Section 1396) of Chapter 7 of
18 Title 42 of the United States Code.

19 A plan contract may not provide that the benefits payable
20 thereunder are subject to reduction if the individual insured has
21 entitlement to the Medi-Cal or medicaid benefits.

22 (b) A plan contract that provides coverage, whether by specific
23 benefit or by the effect of general wording, for sterilization
24 operations or procedures shall not impose any disclaimer,
25 restriction on, or limitation of, coverage relative to the covered
26 individual's reason for sterilization.

27 As used in this section, "sterilization operations or procedures"
28 shall have the same meaning as that specified in Section 10120 of
29 the Insurance Code.

30 (c) Every plan contract that provides coverage to the spouse or
31 dependents of the subscriber or spouse shall grant immediate

1 accident and sickness coverage, from and after the moment of
2 birth, to each newborn infant of any subscriber or spouse covered
3 and to each minor child placed for adoption from and after the
4 date on which the adoptive child's birth parent or other
5 appropriate legal authority signs a written document, including,
6 but not limited to, a health facility minor release report, a medical
7 authorization form, or a relinquishment form, granting the
8 subscriber or spouse the right to control health care for the
9 adoptive child or, absent this written document, on the date there
10 exists evidence of the subscriber's or spouse's right to control the
11 health care of the child placed for adoption. No plan may be
12 entered into or amended if it contains any disclaimer, waiver, or
13 other limitation of coverage relative to the coverage or
14 insurability of newborn infants of, or children placed for
15 adoption with, a subscriber or spouse covered as required by this
16 subdivision.

17 (d) Every plan contract that provides that coverage of a
18 dependent child of a subscriber shall terminate upon attainment
19 of the limiting age for dependent children specified in the plan,
20 which may not be prior to a dependent's 26th birthday, shall also
21 provide in substance that attainment of the limiting age shall not
22 operate to terminate the coverage of the child while the child is
23 and continues to be both (1) incapable of self-sustaining
24 employment by reason of mental retardation or physical handicap
25 and (2) chiefly dependent upon the subscriber for support and
26 maintenance, provided proof of the incapacity and dependency is
27 furnished to the plan by the member within 31 days of the
28 request for the information by the plan or group plan
29 contractholder and subsequently as may be required by the plan
30 or group plan contractholder, but not more frequently than
31 annually after the two-year period following the child's
32 attainment of the limiting age. *Coverage provided pursuant to*
33 *this subdivision shall be subject to the same terms and conditions*
34 *regardless of the age of the dependent.*

35 (e) A plan contract that provides coverage, whether by specific
36 benefit or by the effect of general wording, for both an employee
37 and one or more covered persons dependent upon the employee
38 and provides for an extension of the coverage for any period
39 following a termination of employment of the employee shall
40 also provide that this extension of coverage shall apply to

1 dependents upon the same terms and conditions precedent as
2 applied to the covered employee, for the same period of time,
3 subject to payment of premiums, if any, as required by the terms
4 of the policy and subject to any applicable collective bargaining
5 agreement.

6 (f) A group contract shall not discriminate against
7 handicapped persons or against groups containing handicapped
8 persons. Nothing in this subdivision shall preclude reasonable
9 provisions in a plan contract against liability for services or
10 reimbursement of the handicap condition or conditions relating
11 thereto, as may be allowed by rules of the director.

12 (g) Every group contract shall set forth the terms and
13 conditions under which subscribers and enrollees may remain in
14 the plan in the event the group ceases to exist, the group contract
15 is terminated or an individual subscriber leaves the group, or the
16 enrollees' eligibility status changes.

17 (h) (1) A health care service plan or specialized health care
18 service plan may provide for coverage of, or for payment for,
19 professional mental health services, or vision care services, or for
20 the exclusion of these services. If the terms and conditions
21 include coverage for services provided in a general acute care
22 hospital or an acute psychiatric hospital as defined in Section
23 1250 and do not restrict or modify the choice of providers, the
24 coverage shall extend to care provided by a psychiatric health
25 facility as defined in Section 1250.2 operating pursuant to
26 licensure by the State Department of Mental Health. A health
27 care service plan that offers outpatient mental health services but
28 does not cover these services in all of its group contracts shall
29 communicate to prospective group contractholders as to the
30 availability of outpatient coverage for the treatment of mental or
31 nervous disorders.

32 (2) No plan shall prohibit the member from selecting any
33 psychologist who is licensed pursuant to the Psychology
34 Licensing Law (Chapter 6.6 (commencing with Section 2900) of
35 Division 2 of the Business and Professions Code), any
36 optometrist who is the holder of a certificate issued pursuant to
37 Chapter 7 (commencing with Section 3000) of Division 2 of the
38 Business and Professions Code or, upon referral by a physician
39 and surgeon licensed pursuant to the Medical Practice Act
40 (Chapter 5 (commencing with Section 2000) of Division 2 of the

1 Business and Professions Code), (i) any marriage and family
2 therapist who is the holder of a license under Section 4980.50 of
3 the Business and Professions Code, (ii) any licensed clinical
4 social worker who is the holder of a license under Section 4996
5 of the Business and Professions Code, (iii) any registered nurse
6 licensed pursuant to Chapter 6 (commencing with Section 2700)
7 of Division 2 of the Business and Professions Code, who
8 possesses a master's degree in psychiatric-mental health nursing
9 and is listed as a psychiatric-mental health nurse by the Board of
10 Registered Nursing, or (iv) any advanced practice registered
11 nurse certified as a clinical nurse specialist pursuant to Article 9
12 (commencing with Section 2838) of Chapter 6 of Division 2 of
13 the Business and Professions Code who participates in expert
14 clinical practice in the specialty of psychiatric-mental health
15 nursing, to perform the particular services covered under the
16 terms of the plan, and the certificate holder is expressly
17 authorized by law to perform these services.

18 (3) Nothing in this section shall be construed to allow any
19 certificate holder or licensee enumerated in this section to
20 perform professional mental health services beyond his or her
21 field or fields of competence as established by his or her
22 education, training and experience.

23 (4) For the purposes of this section, "marriage and family
24 therapist" means a licensed marriage and family therapist who
25 has received specific instruction in assessment, diagnosis,
26 prognosis, and counseling, and psychotherapeutic treatment of
27 premarital, marriage, family, and child relationship dysfunctions
28 which is equivalent to the instruction required for licensure on
29 January 1, 1981.

30 (5) Nothing in this section shall be construed to allow a
31 member to select and obtain mental health or psychological or
32 vision care services from a certificate or license holder who is not
33 directly affiliated with or under contract to the health care service
34 plan or specialized health care service plan to which the member
35 belongs. All health care service plans and individual practice
36 associations that offer mental health benefits shall make
37 reasonable efforts to make available to their members the
38 services of licensed psychologists. However, a failure of a plan
39 or association to comply with the requirements of the preceding
40 sentence shall not constitute a misdemeanor.

(6) As used in this subdivision, “individual practice association” means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (42 U.S.C. Sec. 300e-1, subsec. (5)).

(7) Health care service plan coverage for professional mental health services may include community residential treatment services that are alternatives to inpatient care and that are directly affiliated with the plan or to which enrollees are referred by providers affiliated with the plan.

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract that provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement that are requisite to the commencement of benefits.

SEC. 2. Section 10277 of the Insurance Code is amended to read:

10277. A group hospital, medical or surgical expense insurance policy delivered or issued for delivery in this state more than 120 days after the effective date of this section, that provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon attainment of the limiting age for dependent children specified in the policy, which may not be prior to a dependent’s 26th birthday, shall also provide in substance that attainment of the limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the employee or member for support and maintenance, provided proof of such incapacity and dependency is furnished to the insurer by the employee or member within 31 days of the child’s attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child’s attainment of the limiting age. *Coverage provided pursuant to this subdivision shall be subject to the same terms and conditions regardless of the age of the dependent.*

1 Group hospital, medical or surgical expense insurance policies
2 currently approved by the commissioner which are delivered or
3 issued for delivery more than 120 days after the effective date of
4 this section shall be automatically construed to be in compliance
5 with this section and need not be refiled or reprinted. Such
6 policies submitted to the commissioner for approval on and after
7 the effective date of this section shall contain provisions in
8 compliance with this section.

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the
14 penalty for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition of a
16 crime within the meaning of Section 6 of Article XIII B of the
17 California Constitution.